

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

COMPLAINT NO. 01-006

**MANDATORY PENALTY
IN THE MATTER OF
WEST COUNTY AGENCY,
WEST COUNTY WASTEWATER DISTRICT, AND
CITY OF RICHMOND MUNICIPAL SEWER DISTRICT
CONTRA COSTA COUNTY**

This complaint to assess Mandatory Penalties pursuant to Water Code section 13385 (h) and/or (i) is issued to the West County Agency (hereafter Discharger) based on a finding of violations of Waste Discharge Requirements Order No. 94-014 (NPDES No. CA0038539).

The Executive Officer finds the following:

1. On January 19, 1994, the Regional Water Quality Control Board, San Francisco Bay Region, (Regional Board) adopted Waste Discharge Requirements Order No. 94-014 (NPDES Permit No. CA0038539), for the West County Agency, to regulate joint discharges of waste from the West County Wastewater District and the City of Richmond Municipal Sewer District.
2. Water Code section 13385(h) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for the first serious violation in any six-month period or in lieu of the penalty require the discharger to spend an equal amount for a supplemental environmental project or to develop a pollution prevention plan.
3. Water Code section 13385(i)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) each, for the second and subsequent serious violations in any 6-month period.
4. Water Code section 13385(i)(2) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six-month period:
 - a. Exceeds a waste discharge requirement effluent limitation.
 - b. Fails to file a report pursuant to Section 13260.
 - c. Files an incomplete report pursuant to Section 13260.
 - d. Exceeds a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.
5. Order No. 94-014 includes the following effluent limitations:

B. EFFLUENT LIMITATIONS

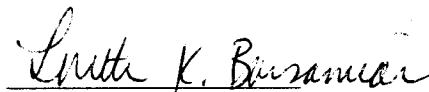
The effluent discharged to the outfall shall not exceed the following limits:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>
a. Biochemical Oxygen Demand (BOD ₅ , 20°C)	mg/l	30	--	60
b. Copper	ug/l	--	--	17
c. Oil & Grease	mg/l	10	--	--

6. According to monitoring reports received, the Discharger committed a serious violation as defined by Water Code Section 13385 (h). The Discharger exceeded the monthly average effluent limitation for Oil and Grease by more than 20% during the month of September 2000. Therefore, this serious violation is subject to mandatory minimum penalty assessment.
7. In the month of September 2000 the Discharger exceeded the monthly average effluent limitation for biochemical oxygen demand (BOD). On October 18, 2000, the Discharger exceeded the daily average effluent limitation for Copper. On November 1, 2000, the Discharger exceeded the daily maximum effluent limitation for BOD. Since there have been more than three previous violations in the six months before November, all of these three exceedances are subject to mandatory penalties.
8. The total amount of the mandatory minimum penalty for these violations is \$12,000, which comprises (i) a \$3,000 fine for the serious violation that occurred in September 2000, and (ii) a \$9,000 fine for the three chronic violations that occurred in September and October 2000.

WEST COUNTY AGENCY IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a Mandatory Minimum Penalty in the amount of \$12,000.
2. The Regional Board shall hold a hearing on February 21, 2001 unless the Discharger agrees to waive the hearing and pay the mandatory penalty of \$12,000 in full.
3. In lieu of the first \$3,000 penalty for the serious violation, the Executive Officer may allow the Discharger to complete a pollution prevention plan or conduct a supplemental environmental project approved by the Executive Officer. The Discharger must make such a request by February 5, 2001.
4. The Discharger may waive the right to a hearing. If you wish to waive the hearing, please check the box and sign the attached waiver and return it and a check made payable to the State Water Resources Control Board for the full amount of the mandatory minimum penalty (\$12,000), to the Regional Board's office at 1515 Clay Street, Suite 1400, Oakland, CA 94612, by February 5, 2001.


Loretta K. Barsamian
Executive Officer

1/29/01
Date

WAIVER

- [] By checking the box, I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. 01-006 and to remit payment for the civil liability imposed. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to remit payment within 60 days after this Complaint is signed by the Executive Officer for the mandatory minimum penalty imposed under Complaint No. 01-006.
- [] By checking the box, I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. 01-006 and to complete a pollution prevention plan or conduct a supplemental environmental project in lieu of the \$3,000 civil liability imposed for the first serious violation, subject to approval by the Executive Officer. If the pollution prevention plan or supplemental environmental project is not acceptable to the Executive Officer, I agree to pay the civil liability within 30 days of a letter from the Executive Officer denying approval of the proposed project. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to complete a pollution prevention plan or conduct a supplemental environmental project approved by the Executive Officer within a time schedule set by the Executive Officer.

Name (print)

Signature

Date

Title/Organization



California Regional Water Quality Control Board

San Francisco Bay Region

Winston H. Hickox
Secretary for
Environmental
Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300 • FAX (510) 622-2460



Gray Davis
Governor

TO: Loretta K. Barsamian
Executive Officer

FROM: 
Eddy Sq
Associate Water Resource Control Engineer

DATE: January 16, 2001

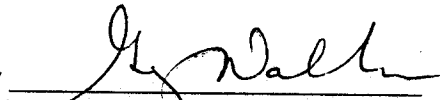
SUBJECT: MANDATORY MINIMUM PENALTIES FOR WEST COUNTY AGENCY

During the month of September the West County Agency (the Discharger) exceeded their monthly average effluent limitations for BOD and Oil & Grease, respectively. On October 18 and November 1, 2000, the Discharger exceeded the daily average effluent limitation for copper and the daily maximum effluent limitation for BOD, respectively. (See Table 1 for the summary of these effluent limitations). For the reasons below, I recommend we impose only the Mandatory Minimum Penalty (MMP) of \$12,000 for these permit violations:

1. There were definitely four violations, as defined under Water Code section 13385(i), during the period from July through November 2000 (1 copper, 2 BOD, and 1 oil and grease violations).
2. These are considered chronic violations and are not exempted from MMP assessment, as they occur within the 6-month period of the last three chronic violations that were assessed in the last MMP. However, the September exceedance (12 mg/l) of Oil & Grease monthly average effluent limitation (10 mg/l) is more than 20% of the respective limitation, thus it is also considered as a serious violation under Water Code section 13385 (h). As the serious violation is the first within the 6-month period from the last serious violation, it is qualified for the SEP substitution.
3. These violations are not due to any sampling, analytical, or reporting errors.

If you have any questions please call me at 622-2418.

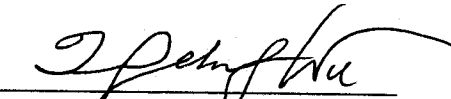
Concurred by


Greg Walker, Section Leader

1-16-01

Date

Concurred by


Teng-Onung Wu, Division Chief

1-16-01

Date

Table 1. Effluent Limitation Violations by West County Agency

[illegible]